IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3089 of 2003

HON'BLE MR.JUSTICE K.S.JHAVERI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

GUJARAT STATE ROAD TRANSPORT CORPORATION LTD

Versus

LALJIBHAI SAJANBHAI KATARA

Appearance:

MR ASHISH M DAGLI for Petitioner No. 1

MR JASWANT K SHAH for Respondent No. 1

CORAM : HON'BLE MR.JUSTICE K.S.JHAVERI

Date of decision: 06/08/2004

ORAL JUDGEMENT

1.0 In this petition the petitioner has challenged the judgement and award dated 27.5.2002 passed by the Labour Court, Kalol, in Reference (LCK) No.300 of 1995, whereby the Labour Court directed the petitioner to reinstate the respondent workman on his original post with 50% backwages.

2.0 The respondent workman was working with the Corporation as a Conductor and on account of the misconduct committed by him during the course of his employment, a departmental inquiry was initiated against him. The misconduct alleged against the respondent workman is that on 19.1.1994, the respondent was on duty on the bus when it was proceeding from Mansa to Vijapur. The respondent has left the trip in the half way and therefore the administration was paralysed and the trip became late on the next day. It was further alleged that the respondent has not issued tickets to the passengers and also misbehaved with the student and passengers of the said trip. After inquiry, since the charges were proved against the respondent, the services of the respondent were terminated.

2.1 The respondent therefore raised a dispute which was referred to the Labour Court, Kalol and the same was numbered as Reference (LCK) No.300/95. After hearing both the sides, the Labour Court by judgement and award dated 27.5.2004 directed the petitioner to reinstate the respondent on his original post with 50% backwages.

3.1 Mr. Dagli for the petitioner submitted that the charges against the petitioner were proved and therefore the Labour Court has committed an error in reinstating the respondent on his original post with 50% backwages. He submitted that though the misconduct of the respondent was proved, no penalty has been imposed upon the respondent.

4.1 I have heard the learned counsel for the respective parties. I have also carefully perused the record of the case. Having regard to the facts and circumstances of the case, especially in view of the misconduct of the respondent and the evidence on record, the Labour Court ought to have imposed some penalty upon the petitioner. Learned counsel for the respondent stated that after reinstatement the petitioenr was again dismissed for old charge and therefore some backwages may be granted. However, the award of 50% backwages is also on the higher side. Therefore, I am of the view that the ends of justice would be met if penalty of stoppage of two increments with future effect is imposed and to grant 30% backwages instead of 50%. Learned counsel for the respondent is unable to contest this proposition.

5.1 In the result, the petition is partly allowed. The award of reinstatement of the respondent is not disturbed. Penalty of stoppage of two increments with

future effect will be imposed upon the workman if he is reinstated in the other reference. Further, the respondent will be entitled only 30% backwages instead of 50%. The judgement and award of the Labour Court is modified to the aforesaid extent. Rule is made absolute accordingly with no order as to costs.

[K.S. JHAVERI, J.]

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